रजिस्ट्री सं० डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY
भाग II—खण्ड 1
PART II—Section 1
प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 43] नई दिल्ली, बुधवार, जुलाई 17, 1974/अषाढ़ 26, 1896
No. 43] NEW DELHI, WEDNESDAY, JULY 17, 1974/ASADHA 26, 1896

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS
(Legislative Department)

New Delhi, the 17th July, 1974/Asadha 26, 1896 (Saka)

THE COMPULSORY DEPOSIT SCHEME (INCOME-TAX PAYERS) ORDINANCE, 1974

No. 10 OF 1974

Promulgated by the President in the Twenty-fifth Year of the Republic of India.

An Ordinance to provide, in the interest of national economic development, for compulsory deposit by certain classes of income-tax payers and for the framing of a scheme in relation thereto, and for matters connected therewith or incidental thereto.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title, extent and commencement.

1. (*1*) This Ordinance may be called the Compulsory Deposit Scheme (Income-tax Payers) Ordinance, 1974.

(*2*) It extends to the whole of India.

(3) It shall come into force at once.

Definitions.

2. In this Ordinance, unless the context otherwise requires,—

(a) "compulsory deposit" means compulsory deposit under this Ordinance;

(b) "deposit" means a deposit of money;

(c) "depositor" means a person who is liable to make a compulsory deposit;

(d) "Income-tax Act" means the Income-tax Act, 1961; 43 of 1961.

(e) all other words and expressions used herein but not defined and defined in the Income-tax Act shall have the meanings, respectively, assigned to them in that Act.

Persons liable to make compulsory deposits.

3. (1) Subject to the provisions of this Ordinance, the persons specified in sub-section (2) shall be liable to make compulsory deposits for the assessment year commencing on the 1st day of April, 1975 and the assessment year commencing on the 1st day of April, 1976.

(2) The persons referred to in sub-section (1) are the following, namely:—

(a) every person, being—

(i) an individual, who is a citizen of India;

(ii) a Hindu undivided family;

(iii) a trustee appointed under a trust declared by a duly executed instrument in writing, whether testamentary or otherwise (including any Wakf deed which is valid under the Mussalman Wakf Validating Act, 1913), if the income in respect of which the trustee is liable to income-tax as a representative assessee or any part thereof is not specifically receivable on behalf or for the benefit of any one person or where the individual shares of the persons on whose behalf or for whose benefit such income or such part thereof is receivable are indeterminate or unknown; and 6 of 1913.

(b) every person who is assessable under the Income-tax Act in respect of the total income of an individual, or a Hindu undivided family or a trustee specified in clause (a).

Requirement as to compulsory deposit.

4. (1) Where, in relation to an assessment year referred to in sub-section (1) of section 3, the current income of any person, being an individual or a Hindu undivided family or a trustee specified in clause (a) of sub-section (2) of that section, exceeds fifteen thousand rupees, such person, or if any other person is assessable under the Income-tax Act in respect of the total income of such person, the person so assessable, shall make, in accordance with and subject to the provisions of this Ordinance and any scheme framed thereunder, a compulsory deposit for that assessment year at the rates specified in the Schedule.

(2) Where, in the case of any person specified in sub-section (2) of section 3, a deduction is required to be made under the Additional Emo-
8 of 1974. luments (Compulsory Deposit) Ordinance, 1974, the amount of the compulsory deposit which such person is liable to make under this Ordinance for any assessment year shall be reduced by the amount deducted under that Ordinance during the financial year immediately preceding that assessment year; and where such deduction is equal to or exceeds the amount of such compulsory deposit, it shall not be necessary for such person to make a compulsory deposit for that assessment year.

(3) For the purposes of this section, "current income", in relation to an assessment year, means,—

(a) in a case where the Income-tax Officer has made an order under sub-section (1) or sub-section (3) of section 210 of the Income-tax Act requiring the person to pay advance tax during the financial year immediately preceding that assessment year and the person has not sent an estimate under sub-section (1) or sub-section (2) or sub-section (3A) of section 212 of that Act,—

(i) if the total income of the latest previous year in respect of which the person has been assessed by way of regular assessment forms the basis of computation of advance tax payable by him, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, which has been taken into account for the purposes of charging income-tax for the assessment year relevant to that previous year; or

(ii) if the total income of the previous year on the basis of which income-tax has been paid by the person under section 140A of the Income-tax Act forms the basis of computation of advance tax, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as increased by the net agricultural income, if any, returned by the person in the return of income for the assessment year relevant to that previous year;

(b) in a case where an estimate is sent by the person under sub-section (1) or sub-section (2) or sub-section (3) or sub-section (3A) of section 212 of the Income-tax Act, the total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act] as estimated by him, of the period which would be the previous year for that assessment year, as increased by the net agricultural income, if any, of that period, as estimated by him;

(c) in any other case, if the total income of the person, as estimated by him, of the period which would be the previous year for that assessment year exceeds the maximum amount not chargeable to income-tax in his case, such total income [exclusive of capital gains and income referred to in sub-clause (ix) of clause (24) of section 2 of the Income-tax Act], as increased by the net agricultural income, if any, of that period, as estimated by him.

Explanation.—In this sub-section, "net agricultural income" means the net agricultural income as defined in the Finance Act of the relevant year.

Time for making compulsory deposit.

5. A depositor shall make the compulsory deposit for an assessment year referred to in sub-section (*1*) of section 3,—

(*a*) in a case where such depositor is required to pay advance tax under the Income-tax Act in the financial year immediately preceding that assessment year, at any time (in one sum or in instalments of his choice) before the expiry of the date on which the last instalment of advance tax is payable by him in accordance with the provisions of section 211 or, as the case may be, sub-section (*3A*) of section 212 of that Act;

(*b*) in any other case, at any time (in one sum or in instalments of his choice) before the end of the financial year immediately preceding that assessment year.

Order by Income-tax Officer for compulsory deposit in certain cases.

6. (*1*) If, in relation to an assessment year referred to in sub-section (*1*) of section 3, the correct income of a person falling under clause (*c*) of sub-section (*3*) of section 4 exceeds fifteen thousand rupees and such person has failed to make the compulsory deposit for that assessment year, the Income-tax Officer shall, by order in writing, direct that such person shall make the compulsory deposit with reference to his correct income.

(*2*) For the purposes of this section, "correct income" of a person, in relation to an assessment year, means—

(*i*) in a case where the person has furnished the return of income under section 139 of the Income-tax Act, the total income [exclusive of capital gains and income referred to in sub-clause (*ix*) of clause (*24*) of section 2 of the Income-tax Act] returned by him, as increased by the net agricultural income, if any, returned by him;

(*ii*) in a case where the person has failed to furnish the return of income under section 139 of the Income-tax Act and assessment is made under section 144 of that Act, the total income [exclusive of capital gains and income referred to in sub-clause (*ix*) of clause (*24*) of section 2 of the Income-tax Act] determined on assessment, as increased by the net agricultural income, if any, determined on assessment.

Explanation.—In this sub-section "net agricultural income" has the meaning assigned to it in the *Explanation* to sub-section (*3*) of section 4.

Compulsory deposit to carry simple interest.

7. (*1*) Every compulsory deposit made by or recovered from a depositor shall carry simple interest at a rate equal to the bank deposit rate.

Explanation.—In this sub-section "bank deposit rate" means the highest of the maximum rates at which interest may be paid on different classes of deposits (other than those maintained in savings account or those maintained by charitable or religious institutions) by different classes of scheduled banks in accordance with the directions given or issued to banking companies generally by the Reserve Bank of India under the Banking Regulation Act, 1949. 10 of 1949.

(*2*) The interest shall be calculated in such manner as may be specified in the scheme framed under section 13.

(3) For the purposes of the deduction under section 80L of the Income-tax Act, interest received on a compulsory deposit shall be deemed to be interest received on a deposit with a banking company to which the Banking Regulation Act, 1949, applies.

10 of 1949.

Repayment of compulsory deposit.

8. The amount of compulsory deposit made by or recovered from a depositor in any financial year shall be repayable in five equal annual instalments commencing from the expiry of two years from the end of that financial year, together with the interest due on the whole or, as the case may be, part of the amount of the compulsory deposit which has remained unpaid:

Provided that nothing in this section shall prevent earlier repayment of the deposit or any instalment thereof together with the interest due in any case in which the Income-tax Officer is satisfied that extreme hardship will be caused unless such repayment is made.

Intimation regarding compulsory deposit.

9. Every depositor shall send to the Income-tax Officer, along with the return of income for the assessment year for which he is liable to make a compulsory deposit, proof of the fact of such deposit having been made.

Penalty for failure to make compulsory deposit.

10. (1) If, in relation to an assessment year referred to in sub-section (1) of section 3, any person who is liable to make a compulsory deposit [being a person falling under clause (a) or clause (b) of sub-section (3) of section 4]—

(a) has failed to make the compulsory deposit within the time allowed under section 5, or

(b) has made the compulsory deposit within such time but the deposit so made falls short of the requisite amount,

the Income-tax Officer shall, by order in writing, direct that such person shall pay, by way of penalty, a sum—

(i) which, in the case referred to in clause (a), shall be equal to twenty-five per cent. of the compulsory deposit which he is liable to make; and

(ii) which, in the case referred to in clause (b), shall be equal to twenty-five per cent. of the amount by which the compulsory deposit made by him falls short of the requisite amount.

(2) If, in relation to an assessment year referred to in sub-section (1) of section 3, the correct income of a person falling under clause (c) of sub-section (3) of section 4, exceeds fifteen thousand rupees and such person—

(a) has failed to make the compulsory deposit within the time allowed under section 5, or

(b) has made the compulsory deposit within such time on the basis of his own estimate but the deposit so made is less than

seventy-five per cent. of the compulsory deposit which he would have been liable to make on the basis of his correct income,

the Income-tax Officer shall, by order in writing, direct that such person shall pay by way of penalty a sum—

(*i*) which, in the case referred to in clause (*a*), shall be equal to twenty-five per cent. of the compulsory deposit calculated with reference to his correct income; and

(*ii*) which, in the case referred to in clause (*b*), shall be equal to twenty-five per cent. of the amount by which the compulsory deposit made by him falls short of the compulsory deposit calculated with reference to his correct income.

Explanation.—In this sub-section, "correct income" has the meaning assigned to it in sub-section (*2*) of section 6.

(*3*) No order imposing a penalty under this section shall be made against any person unless such person has been heard or has been given a reasonable opportunity of being heard.

Appeals and revision.

11. Any depositor, aggrieved by any order of the Income-tax Officer imposing a penalty under section 10, may appeal to the Appellate Assistant Commissioner and the provisions of the Income-tax Act relating to appeals, reference and revision shall, so far as may be, apply in relation to such order as they apply in relation to an order of the Income-tax Officer imposing a penalty under section 221 of that Act.

Recovery of compulsory deposit and penalty.

12. Any arrear of compulsory deposit and any penalty imposed under this Ordinance shall be recoverable in the manner provided in Chapter XVII-D of the Income-tax Act for the recovery of arrears of tax.

Compulsory Deposit Scheme.

13. (*1*) The Central Government shall, by notification in the Official Gazette, frame a scheme or schemes, to be called Compulsory Deposit (Income-tax Payers) Scheme or Schemes, in relation to compulsory deposits.

(*2*) A scheme framed under sub-section (*1*) may provide for—

(*a*) the manner in which compulsory deposits shall be made;

(*b*) the documents to be issued to persons by whom deposits have been made as evidence of such deposits;

(*c*) the authority or authorities by or through whom the deposits may be collected;

(*d*) the nomination of any person to receive the amount standing to the credit of a depositor in the event of his death or in cancellation or change of such nomination;

(*e*) the issue of duplicate of any document issued as evidence of any deposit in the event of loss or destruction of the original and the fee (not exceeding two rupees) on the payment of which such duplicate may be issued;

(*f*) any other matter which may be necessary or proper for the effective implementation of the scheme.

(3) A scheme framed under this section may provide that all or any of its provisions shall take effect either prospectively or retrospectively on such date as may be specified in this behalf in the scheme.

(4) Any scheme framed under this section shall have effect notwithstanding anything contained in any law for the time being in force (other than this Ordinance) or any instrument having effect by virtue of any law other than this Ordinance.

Modification, etc. of scheme.

14. The Central Government may, by notification in the Official Gazette, add to, amend, vary or rescind any scheme framed under this Ordinance.

Rounding off.

15. (1) The amount of any compulsory deposit shall be rounded off to the nearest multiple of ten rupees and for this purpose any part of a rupee consisting of paise shall be ignored and thereafter if such amount is not a multiple of ten, then, if the last figure in that amount is five or more, the amount shall be increased to the next higher amount which is a multiple of ten and if the last figure is less than five, the amount shall be reduced to the next lower amount which is a multiple of ten.

(2) The amount of penalty payable under the provisions of this Ordinance shall be rounded off to the nearest rupee and, for this purpose, where such amount contains a part of a rupee consisting of paise, then, if such part is fifty paise or more, it shall be increased to one rupee and if such part is less than fifty paise, it shall be ignored.

Applicability of Chapter XV of Income-tax Act.

16. The provisions of Chapter XV of the Income-tax Act relating to liability in special cases shall, so far as may be, apply in relation to compulsory deposits and penalties imposable under this Ordinance as they apply in relation to income-tax payable and penalties imposable under that Act.

Protection against attachment.

17. (1) The amount of compulsory deposit and interest thereon standing to the credit of any depositor shall not be liable to attachment under a decree or order of any court in respect of any debt or liability incurred by the depositor.

(2) The amount of compulsory deposit and interest thereon standing to the credit of a depositor at the time of his death and payable to his nominee shall vest in the nominee and shall be free from debt or other liability incurred by the deceased or incurred by the nominee before the death of the depositor.

Protection of action taken in good faith.

18. No suit, prosecution or other legal proceeding shall lie against the Government or against any officer of the Government for anything which is in good faith done or intended to be done under this Ordinance or any scheme framed thereunder.

Schemes to be laid before the Houses of Parliament.

19. Every scheme framed under this Ordinance shall be laid, as soon as may be, after it is framed before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the

scheme or both Houses agree that the scheme should not be made, the scheme shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that scheme.

Power to remove difficulties.

20. If any difficulty arises in giving effect to the provisions of this Ordinance, the Central Government may, by order, not inconsistent with the provisions of this Ordinance, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of two years from the commencement of this Ordinance.

THE SCHEDULE

[*See* section 4(1)]

RATES OF COMPULSORY DEPOSIT

(1) Where the current income exceeds Rs. 15,000 but does not exceed Rs. 25,000	4 per cent. of the current income;
(2) Where the current income exceeds Rs. 25,000 but does not exceed Rs. 70,000	Rs. 1,000 *plus* 6 per cent. of the amount by which the current income exceeds Rs. 25,000;
(3) Where the current income exceeds Rs. 70,000	Rs. 3,700 *plus* 8 per cent. of the amount by which the current income exceeds Rs. 70,000:

Provided that where the current income exceeds Rs. 15,000 but does not exceed Rs. 15,620, the compulsory deposit shall in no case exceed the amount by which the current income exceeds Rs. 15,000:

Provided further that where in the case of any depositor the amount of compulsory deposit calculated in accordance with the foregoing provisions is less than Rs. 100, it shall not be necessary for him to make such deposit.

Explanation.—In this Schedule, "current income" has the meaning assigned to it in sub-section (3) of section 4.

V. V. GIRI,
President.

K. K. SUNDARAM,
Secy. to the Govt. of India.

PRINTED BY THE MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1974